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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,762	01/23/2001	Walter R. Harfmann	0869.073	3754

7590

06/06/2003

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EXAMINER

KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
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1732

8

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-8

Office Action Summary

Application No.

09/768,762

Applicant(s)

HARFMAN

Examiner

KUHNS

Group Art Unit

1732

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE(3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on MARCH 19, 2003
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17 AND 44-62 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-17, 44-55 AND 57-62 is/are rejected.
- ☒ Claim(s) 563 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4, 6 ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

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1. Claims 8, 45-55 and 57-62 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for causing thermal isolation by locating an air gap between the first portion and second portion of an exiting channel, does not reasonably provide enablement for achieving thermal isolation by means other than locating an air gap between the first portion and second portion of the exiting channel. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

2. Claims 1-17, 44-55 and 57-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-17, 44 and 58-59 are indefinite because units of density are recited but are denoted as "specific gravity". Claims 8, 45-55 and 57-62 are indefinite due to the vague phrase "at least partially thermally isolating the first portion from the second portion", as in claims 8 and 45. One of ordinary skill in the art would not be able to establish with certainty the metes and bounds of these claims because one of ordinary skill in the art would not be able to establish when the first portion and second portion of the exiting channel was or was not at least partially thermally isolated from each other. Thus, if these claims were to issue, one of ordinary skill in the art would not be able to determine whether or not these claims were being infringed or not.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. as set forth in the previous Office action in view of Wilkes et al. (5,817,705). Wilkes et al., for example at column 24, lines 6-7, teach the aspect of forming a polymer foam having a density of less than about 0.15 g/cc. It would have been obvious to one of ordinary skill in the art to operate the process of Wu et al. in a manner to produce a foam having a density within the range taught by Wilkes et al. in order to meet commercial demand for foams having such a density.

5. Claims 4-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. in view of Wilkes et al. as applied to claims 1-3 and 14-17 above, and further in view of Peters as set forth in the previous Office action.

6. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. as set forth in the previous Office action in view of Sanyasi. Sanyasi, at column 5, lines 23-27 teaches the aspect of forming a polystyrene foam having a density of less than about 0.15 g/cc. It would have been obvious to one of ordinary skill in the art to use the process of Wu et al. to form a polystyrene foam having a density within the instantly claimed range for instances where service temperature, fragility and chemical resistance are not of concern.

7. Claims 9 and 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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8. Claim 56 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Applicant's arguments filed March 19, 2003 have been fully considered but they are not persuasive. Applicant's arguments are considered to be moot by the examiner based on the revised grounds of rejection introduced in this Office action.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (703) 308-3462. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached on (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Allan R. Kuhns
ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732
6-2-03